

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

WINDMILL & EASTERN, LLC.,

Plaintiff,

V.

SIMON SHAKIB, an individual and as the trustee of the Nevada K, LLC Defined Pension Plan; et al.,

Defendant.

2:11-cv-1082-LDG-PAL

ORDER

This is a declaratory judgment action seeking resolution of whether the defined pension plan was governed by ERISA at the time defendants pledged the CD as security for the loan pursuant to the pledge agreement, and assuming that the plan is governed by ERISA, whether the CD is a protected asset. Before the court are plaintiff Windmill & Eastern, LLC's, motion for summary judgment (#12, response #14, reply #18, supplement #24) and defendants' counter motion for summary judgment (#15, supplement #24).¹ On February 24, 2012, defendants filed a notice of bankruptcy for debtor Simon K. Shakib, who is named individually and as co-trustee of the Nevada K, LLC.

¹The docket does not reflect the filing of a response to the counter-motion.

1 The court must defer resolution of the summary judgment motions until a determination is
2 made regarding the effect that the bankruptcy filing has on this case. The court will deny the
3 pending motions without prejudice to their reinstatement after such determination, and will direct
4 the parties to file briefs on the issue.

5 THE COURT HEREBY ORDERS that plaintiff Windmill & Eastern, LLC's, motion for
6 summary judgment (#12) and defendants' counter motion for summary judgment (#15) are
7 DENIED without prejudice subject to their reinstatement following a determination regarding the
8 effect that the bankruptcy filing has on this case.

9 THE COURT FURTHER ORDERS that the parties shall have sixty (60) days in which to
10 file supplemental briefs regarding the effect that the bankruptcy filing has on this case.

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Dated this 13 day of March, 2012.

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A handwritten signature in blue ink, appearing to read "Lloyd D. George". It is written in a cursive style with some loops and variations in letter height.

Lloyd D. George
United States District Judge